

May 25, 1943

M. A. Goodwin, Superintendent
Motor Vehicle Division
Arizona Highway Department
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Att: H. J. Travis

Gentlemen:

Your request of May 24, 1943, for an opinion upon the following has been received:

"May a civilian employee of the U. S. Government, employed at an Army Post or Defense Project and hired through Civil Service regulations, operate a Government owned vehicle upon the public highways using a Government operator's permit instead of an Arizona chauffeur's license?"

Under Sec. 66-401, Ariz. Code Annot., 1939, a chauffeur is one who operates a motor vehicle while in use as a public or common carrier, or is one who in the course of his employment, drives a vehicle of which he is not the owner for the purpose of the transportation of persons or property.

Under Sec. 66-238 driving without an operator's or chauffeur's license is prohibited. The section does not apply to a person in the service of the Army, Navy or Marine Corp of the United States when furnished with a government driver's permit and when operating an official motor vehicle in such service. The driver's permit furnished by the United States is not a chauffeur's license.

Your question relates to a civilian employee of the government. Such an employee is not within the protection of the exception to Sec. 66-238, whether he is employed at an Army Post or Defense Project and even if he is hired in accordance with civil service regulations. We do not see that it makes any difference if he is employed at an Army Post or Defense Project or that he operates a government owned vehicle upon the public highway. The prohibition of the statute is against the individual and not against the employer. The individual is guilty of the offense if he, as a part of his employment, operates a vehicle on the public highways without having a chauffeur's license. He may, accordingly, be prosecuted for misdemeanor for each offense.

This is not intended to mean that the Highway Patrol of the vehicle division can stop the operation of a vehicle belonging to the government and carrying persons or property for the government, but it does not prevent the State from bringing a proper criminal action against the driver.

Very truly yours,

JOE CONWAY
ATTORNEY GENERAL

A. R. Lynch
A. R. LYNCH
ASSISTANT ATTORNEY GENERAL

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